

Appeal from decisions of the Nevada State Office, Bureau of Land Management, rejecting desert land entry applications N-31506, N-31508, N-31511, and N-31514. 1/

Affirmed.

1. Desert Land Entry: Generally -- Desert Land Entry: Applications

A desert land entry application is properly rejected where the lands applied for are unsurveyed according to the official records of the Bureau of Land Management.

APPEARANCES: Gregory J. Chachas, Esq., Ely, Nevada, for appellants.

OPINION BY ADMINISTRATIVE JUDGE FRAZIER

George J. Chachas, John T. Chachas, Mary P. Chachas, and Gregory J. Chachas, Jr., have appealed from separate decisions of the Nevada State Office, Bureau of Land Management (BLM), dated January 15, 1981, which rejected their desert land applications, N-31506, N-31508, N-31511, and N-31514, for various tracts of land located within T. 23 N., R. 68 E., Mount Diablo meridian, Nevada. These applications were rejected because the lands applied for had not been surveyed and were not available for entry pursuant to the regulation 43 CFR 2520.0-8.

[1] As the State Office has correctly indicated, unsurveyed lands are not subject to entry under the desert land law. 43 U.S.C. § 326 (1976); 43 CFR 2520.0-8.

1/ In addition to these four cases, appeals have been filed by Marilyn Chachas in N-31507, Elizabeth B. Chachas in N-31509, Gregory J. Chachas in N-31510, Arthur T. Chachas in N-31512, and Theodore J. Chachas in N-31513. These applications are for lands within T. 23 N., R. 67 E., Mount Diablo meridian, Nevada. The case files involved do not contain decisions rejecting these applications, nor do any of the other four decisions appealed from purport to cover these applications. Therefore, these appeals are premature, and the case files are returned herewith to the State Office.

Appellants argue that these applications were erroneously denied stating that:

[F]or all practical purposes, the lands have been surveyed since the Surveyor General, first rode through the country in 1862 and placed boundary markers throughout this area which boundary markers and survey stakes and corners were used to establish the PONY EXPRESS ROUTES. This specific area was a Pony Express Station, it is still marked as the main route of the pony express. Even the Indians can find it, even though some BLM members cannot. Furthermore, in 1977, the BLM edited and published surface minerals management status PLANIMETRIC maps designating in detail all corners, all public lands, and many other detailed features of the lands.

Contrary to appellant's contentions the applied for lands have never been surveyed. The official records of the BLM show the lands to be unsurveyed. The case files contain protraction diagrams of lands within T. 23 N., R. 68 E., Mount Diablo meridian, Nevada. The plats are clearly titled "unsurveyed." The lands involved have never been subdivided under the rectangular system of public land surveys and delineated on a plat of survey approved by the Director of BLM or his predecessor, the Commissioner of the General Land Office. The surveying of the public lands is an administrative act confided to the Director of BLM, under the direction of the Secretary of the Interior. 43 U.S.C. § 2 (1976). Whatever maps appellants refer to in their appeal are not official plats of survey and do not make the lands "surveyed" within the context of the law. See Arthur E. Meinhardt, Irwin Rubenstein, 6 IBLA 39 (1972).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Gail M. Frazier
Administrative Judge

We concur:

Bruce R. Harris
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

